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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,955	09/04/2003	Qiang Qiu	10191/3334	8919

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EXAMINER

LO, SUZANNE

ART UNIT	PAPER NUMBER
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2128

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/655,955	Applicant(s) QIU, QIANG	
	Examiner Suzanne Lo	Art Unit 2128	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>09/04/03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-22 have been presented for examination.

PRIORITY

2. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d).

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 09/04/03 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the Examiner has considered the IDS as to the merits.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-9 and 14-22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Specifically, claims 1-9 and 14-22 have no tangible result. In claims 8 and 21, it appears that the outputted message is not a tangible given that it can be reasonable interpreted that the message is output to another computer system (not tangible) versus a message output to a user (tangible). Specifically, claims 14-22 are directed to software, per se. It should be noted that code (i.e., a computer software program) does not do anything per se. Instead, it is the code *stored on a computer that*, when executed, instructs the computer to perform various functions. The following claim is a generic example of a proper computer program product claim;

A computer program product embodied on a computer-readable medium and comprising code that, when executed, causes a computer to perform the following:

Function A
Function B
Function C, etc...

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 9, 12, and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to the Examiner what the applicant is claiming. As a result, the above mentioned claims are not treated on merit.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2, 4-5, 10-11, 14-15, and 17-18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Baque et al. (U.S. Patent No. 6,246,933 B1).

As per claim 1, Baque is directed to a method for acquiring driving data of a vehicle, comprising: calculating a three-dimensional, kinematic vehicle model (column 10, lines 48-52 and column 14, lines 54-61), the vehicle model including at least one linear-motion-dynamics signal (column 9, line 64-column 10, line 3) and at least one lateral-motion-dynamics signal (column 10, line 59 – column 11, line 14) that can be utilized for reconstructing a vehicle movement.

As per claim 2, Baque is directed to the method as recited in claim 1, further comprising: recording a time signal (column 9, lines 51-57).

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As per claim 4, Baque is directed to the method as recited in claim 1, wherein: the at least one linear-motion-dynamics signal includes at least one of speed signals of all wheels, vehicular-speed signals, longitudinal-acceleration signals, and a GPS signal (column 9, line 64- column 10, line 3).

As per claim 5, Baque is directed to the method as recited in claim 1, wherein: the at least one lateral-motion-dynamics signal includes at least one of rotational-rate signals, lateral-acceleration signals and steering-angle signals (column 10, line 59 – column 11, line 14).

As per claims 10-11, Baque is directed to a device for acquiring vehicle data, comprising components to perform the method steps of claims 1-2 and are therefore rejected under the same art.

As per claims 14-15 and 17-18, Baque is directed to a computer program having a program-code that when executed on one of a computer and a processing unit results in a performance of the method steps of claims 1-2 and 4-5 and are therefore rejected under the same art.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. **Claims 6 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Baque et al. (U.S. Patent No. 6,246,933 B1)** in view of **Woll et al. (U.S. Patent No. 5,581,464)**.

As per claim 6, Baque is directed to the method as recited in claim 1, but fails to specifically disclose further comprising: utilizing a radar signal. Woll teaches utilizing a radar signal (column 3, lines 46-59). Baque and Woll are analogous art because they are both from the same field of endeavor. It would have been obvious to an ordinary person skilled in the art at the time of the invention to combine the method of acquiring driving data of Baque with the radar signal of Woll as Woll is incorporated into the teachings of Baque (Baque, column 4, line 60- column 5, line 15) to make accident reconstruction more reliable and less expensive (Baque, column 11, lines 59-62).

As per claim 19, the combination of Baque and Woll is directed to a computer program having a program-code that when executed on one of a computer and a processing unit results in a performance of the method steps of claim 6 and is therefore rejected over the same art combination.

8. **Claims 3 and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Baque et al. (U.S. Patent No. 6,246,933 B1)** in view of **Ishibashi et al. (U.S. Patent No. 5,526,269)**.

As per claim 3, Baque is directed to the method as recited in claim 2, but fails to specifically disclose further comprising: obtaining the time signal from a real-time radio clock. Ishibashi teaches obtaining the time signal from a real-time radio clock (column 2, lines 36-42). Baque and Ishibashi are analogous art because they are both from the same field of endeavor, recording driving data. It would have been obvious to an ordinary person skilled in the art at the time of the invention to combine the method of acquiring driving data of Baque with the radio clock signal of Ishibashi in order to correct the time signal when needed (Ishibashi, column 4, lines 25-27).

As per claim 16, the combination of Baque and Ishibashi is directed to a computer program having a program-code that when executed on one of a computer and a processing unit results in a performance of the method steps of claim 3 and is therefore rejected over the same art combination.

9. Claims 7 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baque et al. (U.S. Patent No. 6,246,933 B1) in view of Hathout et al. (U.S. Patent No. 6,675,074 B2).

As per claim 7, Baque is directed to the method as recited in claim 1, but fails to specifically disclose further comprising: utilizing a rotational-rate signal of an ESP system. Hathout teaches utilizing a rotation-rate signal of an ESP system (column 3, lines 1-9). Baque and Hathout are analogous art because they are both from the same field of endeavor, recording driving data. It would have been obvious to an ordinary person skilled in the art at the time of the invention to combine the method of acquiring driving data of Baque with the rotational-rate signal of Hathout in order to better calculate positions in real time (Hathout, column 3, lines 1-9) more reliably and less costly (Baque, column 11, lines 59-62).

As per claim 20, the combination of Baque and Hathout is directed to a computer program having a program-code that when executed on one of a computer and a processing unit results in a performance of the method steps of claim 7 and is therefore rejected over the same art combination.

10. Claims 8, 13, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baque et al. (U.S. Patent No. 6,246,933 B1) in view of Rayner (U.S. Patent No. 6,718,239 B2).

As per claim 8, Baque is directed to the method as recited in claim 1, but fails to specifically disclose further comprising: outputting a message based on the at least one linear-motion-dynamics signal and the at least one lateral-motion-dynamics signal in response to a predeterminable event. Rayner teaches outputting a message based on linear and lateral dynamics signals (column 5, line 63 – column 6,

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line 2). Baque and Rayner are analogous art because they are both from the same field of endeavor, recording driving data. It would have been obvious to an ordinary person skilled in the art at the time of the invention to combine the method of acquiring driving data of Baque with the output message of Rayner in order to provide feedback to an operator (**Rayner, column 5, line 63 – column 6, line 2**).

As per claim 13, the combination of Baque and Rayner is directed to a device for acquiring vehicle data, comprising components to perform the method steps of claim 8 and is therefore rejected over the same art combination.

As per claim 21, the combination of Baque and Rayner is directed to a computer program having a program-code that when executed on one of a computer and a processing unit results in a performance of the method steps of claim 8 and is therefore rejected over the same art combination.

Conclusion

11. The prior art made of record is not relied upon because it is cumulative to the applied rejection.

These references include:

1. U.S. Patent No. 6,748,305 B1 issued to Klauser et al. on 06/08/04.
2. U.S. Patent No. 5,826,206 issued to Nemeth on 10/20/98.
3. U.S. Patent No. 6,535,804 B1 issued to Chun on 03/18/03.

12. All Claims are rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzanne Lo whose telephone number is (571)272-5876. The examiner can normally be reached on M-F, 8-4:30.

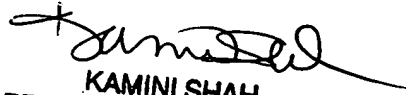
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamini Shah can be reached on (571)272-2297. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Suzanne Lo
Patent Examiner
Art Unit 2128

SL
09/18/06


KAMINI SHAH
SUPERVISORY PATENT EXAMINER